Supreme Court, U.S.
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In The

Supreme Court of the United States

October Term, 1979

No. 79-1056

NORTHWEST AIRLINES, INC.,

Petitioner,

– against –

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO

– and –

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,

Respondents,

OPPOSITION OF RESPONDENT AIR LINE PILOTS ASSOCIATION, INTERNATIONAL TO MOTION OF CHAMBER OF COMMERCE TO FILE A BRIEF AMICUS CURIAE

STEPHEN B. MOLDOF
Of Counsel:
Keith E. Secular
Jay Levy-Warren
COHEN, WEISS and SIMON
605 Third Avenue
New York, New York 10016
Telephone: (212) 682-6077

Attorneys for Respondent Air Line Pilots Association, International

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Respondent Air Line Pilots Association, International objects to the motion for leave to file a brief amicus curiae by

the Chamber of Commerce because it is out of time and urges that it be denied.

Rule 42.1. of this Court provides that "A brief of an amicus curiae prior to consideration *** of the petition for writ of certiorari *** or a motion for leave to file when consent is refused, may be filed only when submitted within a reasonable time prior to the consideration *** of the petition for a writ of certiorari. Such motions are not favored".

The petition for certiorari herein was filed on January 4, 1980, and the brief in opposition was filed on February 4, 1980. The petition appears to have been considered by the Court in its conference of February 22, 1980, since on the following Monday, February 25, the Court issued an order inviting the Solicitor General to file a brief expressing the views of the United States. The Chamber's

motion to file a brief amicus curiae was filed on April 4, 1980.

We submit that the Court's order was not intended to reopen the time for filing a motion for leave to file a brief amicus curiae by private parties, thereby transmuting an invitation to the Solicitor General into an invitation to the whole world to file "disfavored" motions to appear as amicus. This Court frequently requests the views of the Solicitor General concerning petitions for certiorari and statements of jurisdiction; it does so, we presume, because it believes that the United States may be able to provide valuable information regarding the merits or importance of the federal questions sought to be raised. It is not implicit in such an order that the Court wishes to hear from others who lack the particular perspective

of the Solicitor General, and who have slept on their rights by not seeking leave to file a brief before the petition for certiorari was originally considered.

While the foregoing is sufficient to support our opposition, the motion should also be denied because of the potential prejudice to respondent resulting from the Chamber's tardy action. Had the Chamber submitted a timely brief amicus curiae, our response could have been included in the brief in opposition to the petition. Respondent should not be burdened with submission of an additional brief at this time to a belated brief amicus curiae.

For the foregoing reasons, the motion of the Chamber of Commerce for leave

to file a brief amicus curiae should be denied.

Respectfully submitted,

STEPHEN B. MOLDOF

Of Counsel:

Keith E. Secular
Jay Levy-Warren

COHEN, WEISS and SIMON

Attorneys for Respondent
Air Line Pilots Association,
International